In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 17112 of 2004

Date of Decision: September 11, 2006

Suraj Bhan

…Petitioner

Versus

The Uttar Haryana Bijli Vitran Nigam Ltd. and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. S.K. Sud, Advocate,
for the petitioner.

Mr. Subhash Goyal, Advocate,
for the respondents.

JUDGMENT

M.M. KUMAR, J. (Oral)

It is an admitted position that the petitioner was acquitted in case FIR No. 34, dated 20.4.2000, under Sections 363/366/376 IPC, registered at Police Station Raipur Rani, District Panchkula. In pursuance to the aforementioned FIR he remained in custody from 8.5.2000 to 22.1.2004. However, an inquiry was held against him, which was stayed on account of pendency of criminal trial and he was reinstated vide order dated 9.1.2004 (P-2). He joined his duties on 23.1.2004. After considering the reply submitted by the petitioner to the charge sheet, the competent authority vide order dated 15.3.2004 (P-8) imposed a minor punishment of stoppage of one increment without future effect. It also ordered that the period of

his suspension from 8.5.2000 to 23.1.2004 was to be considered as leave of the kind due. The departmental appeal filed by the petitioner against the order dated 15.3.2004 (P-8) was also dismissed vide order dated 7.7.2004 (P-10).

It is an admitted position that no notice before passing the order in respect of his suspension period, was issued to the petitioner as was required by Rule 7.5 of the Punjab Civil Services Rules, Volume I, Part-I, as applicable to Haryana (for brevity, 'the Rules'). It is well settled that issuance of notice is mandatory as has been held by Hon'ble the Supreme court in the case of **B.D. Gupta v. State of Haryana, AIR 1972 SC 2472**. The aforementioned judgment has been followed by this Court in the case of **B.D. Singla v. Chief Engineer, 1991(2) SCT 319**.

In view of the above, we partially set aside the order dated 15.3.2004 (P-8) insofar as it orders that the period from 8.5.2000 to 23.1.2004 was to be treated as leave of the kind due. However, we leave it open to the respondents to proceed with the issuance of notice to the petitioner under Rule 7.5 of the Rules and decide the matter afresh in accordance with law.

The petition stands disposed of in the above terms.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

September 11, 2006
Pkapoor